

ASSEMBLY BILL

No. 204

Introduced by Assembly Member Nation

January 28, 2003

An act to amend Section 31164 of, and to add Sections 31165, 31166, and 31167 to, the Public Resources Code, and to add Section 9250.20 to the Vehicle Code, relating to the State Coastal Conservancy.

LEGISLATIVE COUNSEL'S DIGEST

AB 204, as introduced, Nation. State Coastal Conservancy: motor vehicles: environmental impacts: mitigation.

Existing law establishes the San Francisco Bay Area Conservancy Program, which is administered by the State Coastal Conservancy (conservancy), in order to address identified resources and recreational goals of the San Francisco Bay area in a coordinated, comprehensive, and effective way. Under that program, the conservancy is authorized to undertake projects and award grants in the 9-county San Francisco Bay area in order to achieve specified goals. Existing law establishes a San Francisco Bay Area Conservancy Program Account in the State Coastal Conservancy Fund for the purposes of depositing and distributing funds for the administration and implementation of the program. Existing law segregates the money in the account into 2 specified subaccounts.

This bill would authorize the conservancy to establish a 3rd subaccount (the Transportation Fund For Clean Water Subaccount) within the account and to request the Department of Motor Vehicles, until January 1, 2015, to collect a fee of up to \$4 upon the registration or registration renewal of every motor vehicle registered in a participating county if at least 3 eligible counties elect to participate.

The bill makes the counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma eligible for participation. Until January 1, 2015, the Department of Motor Vehicles would be required to collect these fees upon the request of the conservancy.

The bill would require the fees in the new subaccount, upon appropriation, to be used by the conservancy to fund projects and grants in participating counties that prevent, reduce, remediate, or mitigate the adverse environmental impacts of motor vehicles and motor vehicle facilities. The bill would authorize activities including, but not limited to, the acquisition, protection, restoration, and enhancement of streams, creeks, marshlands, diked lands, ponds, submerged and tidal portions of the bay, wetlands, watersheds, agricultural open space, roads, trails, and related research planning and educational activities. The bill subjects authorized projects and grants to specified procedures, criteria, and priorities. The bill would require that funds be expended for projects and grants in participating counties so that, in any 2 2-year periods as prescribed, project and grant benefits are generally proportional to the revenues collected in each participating county, as specified.

The bill would require the conservancy and regional water quality control boards, as applicable, at least once every 2 years, to each undertake an audit of the program of projects and grants funded through the subaccount.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares the
- 2 following:
- 3 (a) Motor vehicles and their related facilities and
- 4 infrastructure, including, but not limited to, highways, streets,
- 5 roads, and parking lots, contribute to nonpoint source pollution
- 6 and environmental degradation. The adverse impacts of motor
- 7 vehicles and these related facilities and infrastructure on surface
- 8 waters, water-related habitat, and other open space may include,
- 9 but are not limited to, the following:
- 10 (1) Increased amount of impervious surfaces resulting in
- 11 higher total and peak water runoff and reduced dry season flows,



1 affecting water temperature, groundwater supply, erosion rates,
2 turbidity, sedimentation, and creek bank stability.

3 (2) Stream channelization and other physical structures,
4 including culverts, to accommodate street and road construction
5 that affect waterflows, erosion rates and delivery of pollutants,
6 habitat availability, the movement of fish and wildlife, and public
7 access to natural areas.

8 (3) Pollutants and fine particulates generated by automobiles
9 that enter the environment through the air, affecting the health of
10 fish, wildlife, and people.

11 (4) Increased potential for the conversion of agricultural,
12 watershed, and habitat lands to other uses.

13 (b) The State Water Resources Control Board has identified the
14 waters of the San Francisco Bay area as having impairments for
15 beneficial uses due to a combination of point and nonpoint source
16 pollution and habitat degradation, and has placed these waters on
17 the Section 303(d) list pursuant to the federal Clean Water Action
18 Plan of 1998.

19 (c) The federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.),
20 in conjunction with the Porter-Cologne Water Quality Control Act
21 (Div. 7 (commencing with Section 13000), Wat. C.) and other
22 statutes and regulations, mandates improved water quality in the
23 San Francisco Bay area, and requires a comprehensive approach
24 that addresses both point and nonpoint source water pollution and
25 associated habitat degradation.

26 (d) Chapter 4.5 (commencing with Section 31160) of Division
27 21 of the Public Resources Code establishes the San Francisco Bay
28 Area Conservancy Program and assigns to the State Coastal
29 Conservancy responsibility for the implementation of a
30 comprehensive program of projects and grants throughout the
31 nine-county San Francisco Bay area that includes, but is not
32 limited to, restoration, enhancement, and protection of wetlands,
33 streams, riparian areas, and watersheds.

34 (e) Existing statutory programs and regulations do not provide
35 sufficient methods to ameliorate the impacts of motor vehicles and
36 existing related facilities and infrastructure on water quality,
37 habitat, and open space.

38 (f) New methods of ameliorating the impacts of motor vehicles
39 and related facilities and infrastructure on the bay, other waters,

1 water-related habitat, and other open space are needed for the
2 nine-county San Francisco Bay area.

3 (g) Efforts to address the impacts described in this section are
4 most effective when public agencies work together and in
5 partnership with community-based organizations and interests.

6 SEC. 2. Section 31164 of the Public Resources Code is
7 amended to read:

8 31164. (a) The San Francisco Bay Area Conservancy
9 Program Account is hereby created in the State Coastal
10 Conservancy Fund, for the purpose of depositing and disbursing
11 funds for the administration and implementation of the San
12 Francisco Bay Area Conservancy Program.

13 (b) (1) The money in the account created pursuant to
14 subdivision (a) shall be segregated into ~~two~~ *three* subaccounts, as
15 follows:

16 (A) The first subaccount shall contain funds that are
17 appropriated by the Legislature for the purposes of this chapter.
18 Any interest that accrues on the funds in this subaccount shall be
19 transferred to, and deposited into, the General Fund. The
20 conservancy shall account for all deposits or reimbursements of
21 funds in this subaccount that are derived from funds that were
22 appropriated by the Legislature for the purposes of this chapter.

23 (B) ~~The~~ (i) *The second subaccount is the Transportation Fund*
24 *For Clean Water Subaccount and shall contain funds derived from*
25 *fees collected by the Department of Motor Vehicles pursuant to*
26 *Section 9250.20 of the Vehicle Code. The Transportation Fund For*
27 *Clean Water Subaccount is established when the conservancy first*
28 *requests the Department of Motor Vehicles to collect a fee pursuant*
29 *to Section 31165. Upon appropriation, funds in the subaccount*
30 *shall be used for projects and grants to address and mitigate the*
31 *impact of motor vehicles, motor vehicle facilities, and related*
32 *infrastructure in the nine-county San Francisco Bay area, as*
33 *described in subdivision (a) of Section 31165.*

34 (ii) *Not more than 5 percent of the fees deposited in the*
35 *Transportation Fund For Clean Water Subaccount may be used by*
36 *the conservancy for its administrative costs.*

37 (iii) *Ten percent of the fees deposited in the Transportation*
38 *Fund For Clean Water Subaccount shall be transferred by the*
39 *conservancy to the State Water Resources Control Board. Those*
40 *funds shall be made available to the regional water quality control*



1 *boards having jurisdiction in the nine-county San Francisco Bay*
2 *area described in subdivision (a) of Section 31165, to be used in*
3 *accordance with Section 31166, either by the boards directly, or to*
4 *develop and implement grant programs, to support research and*
5 *education designed to improve scientific and public understanding*
6 *of, and to prevent, reduce, remediate, or mitigate the impacts of*
7 *motor vehicles, motor vehicle facilities, and related infrastructure*
8 *on water quality, water-related habitat, and watersheds within the*
9 *nine-county San Francisco Bay area. In determining research and*
10 *education needs and priorities, the regional boards shall consult*
11 *with the San Francisco Bay Conservation and Development*
12 *Commission, the Metropolitan Transportation Commission, the*
13 *Association of Bay Area Governments, the air quality management*
14 *district or air pollution control district having jurisdiction in the*
15 *nine-county San Francisco Bay area described in subdivision (a)*
16 *of Section 31165, participating counties, and other wetland,*
17 *riparian, and watershed restoration and protection organizations*
18 *as the regional boards determine appropriate. Up to 5 percent of*
19 *the total amount transferred to the board may be used by the*
20 *regional boards for administrative costs. Funds transferred*
21 *pursuant to this clause shall also be available for grants to local*
22 *watershed groups, nonprofit organizations, and public agencies to*
23 *plan, manage, and develop eligible projects consistent with local*
24 *watershed management plans as defined by Section 79078 of the*
25 *Water Code, or other equivalent local, state, or federally*
26 *supported watershed protection programs.*

27 (C) *The third subaccount shall contain funds that are derived*
28 *from all other sources, exclusive of federal funds, for the purposes*
29 *of this chapter, including, but not limited to, private donations, fees*
30 *and penalties, and local government contributions. Any interest*
31 *that accrues on the funds in this subaccount shall be retained in the*
32 *subaccount and shall be available for expenditure by the*
33 *conservancy for the purposes of this chapter. Not more than 3*
34 *percent of the funds that are deposited in this subaccount shall be*
35 *utilized by the conservancy for general administration and*
36 *planning purposes. No funds shall be expended from this*
37 *subaccount for any activity that would legally require a*
38 *commitment of state funds in the future. Notwithstanding Section*
39 *13340 of the Government Code, the funds in this subaccount are*



1 continuously appropriated, without regard to fiscal year, to the
2 conservancy for expenditures for the purposes of this chapter.

3 (2) All reimbursements, proceeds of sale, or other money
4 received by the conservancy for the purposes of this chapter that
5 are not expended on projects under the San Francisco Bay Area
6 Conservancy Program shall be redeposited in the appropriate
7 subaccount of the account.

8 (c) The conservancy shall not be required to undertake any
9 activities pursuant to this chapter until such time that funds from
10 new sources of funding that are not currently available to the
11 conservancy for those purposes are appropriated by the
12 Legislature or otherwise deposited in the account, and until such
13 time that any administrative or general planning funds expended
14 by the conservancy for the purposes of this chapter prior to any
15 such appropriations or deposits being available for expenditure by
16 the conservancy are reimbursed to the State Coastal Conservancy
17 Fund.

18 SEC. 3. Section 31165 is added to the Public Resources Code,
19 to read:

20 31165. (a) Until January 1, 2015, the conservancy may
21 request that the Department of Motor Vehicles collect a fee of up
22 to four dollars (\$4) upon the registration or renewal of registration
23 of every motor vehicle registered in eligible counties that elect to
24 participate, but only after at least three such eligible counties elect
25 to participate. Eligible counties include Alameda, Contra Costa,
26 Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and
27 Sonoma. The registration fee shall be computed in the manner
28 specified by Section 9559 of the Vehicle Code. A county may elect
29 to participate by a majority vote of the membership of its board of
30 supervisors. The conservancy shall request, until January 1, 2015,
31 the Department of Motor Vehicles, pursuant to Section 9250.20 of
32 the Vehicle Code, to collect these fees at the time of registration or
33 the renewal of registration of motor vehicles registered in those
34 participating counties.

35 (b) Fees deposited in the Transportation Fund For Clean Water
36 Subaccount may only be used by the conservancy for the purpose
37 of administering and funding projects and grants to nonprofit
38 organizations and public agencies that prevent, reduce, remediate,
39 or mitigate the adverse environmental impacts of motor vehicles
40 and motor vehicle facilities through activities including, but not



1 limited to, the acquisition, protection, restoration, and
2 enhancement of streams, creeks, marshlands, diked lands, ponds,
3 submerged and tidal portions of the bay, wetlands, watersheds,
4 agricultural land, open space, roads, trails, and related research,
5 planning, and educational activities, subject to the procedures,
6 criteria, and priorities of this chapter, and the following additional
7 criteria and priorities:

8 (1) Projects and grants shall be consistent with the adopted
9 plans of the applicable regional water quality control board,
10 applicable watershed management initiatives, or other adopted
11 plans that identify goals, objectives, and implementation strategies
12 for achieving the goals of and compliance with this chapter and
13 related statutes, including, but not limited to, Chapter 6
14 (commencing with Section 1600) of Division 2 of the Fish and
15 Game Code, Article 4 (commencing with Section 13160) of
16 Chapter 3 of, Article 3 (commencing with Section 13240) of
17 Chapter 4 of, and Chapter 5.6 (commencing with Section 13390)
18 of, Division 7 of the Water Code, and Division 2 (commencing
19 with Section 2001) of this code.

20 (2) Funds in the subaccount may not be used to fund any part
21 of a project or activity required to satisfy a condition imposed by
22 a permit, license, certificate, or other entitlement, other than a
23 permit, license, certificate, or entitlement required for a project
24 funded in whole or in part from funds in the subaccount, issued by
25 one or more public agencies, including, but not limited to, the
26 mitigation of significant effects on the environment of a project
27 pursuant to an approved environmental impact report or mitigated
28 negative declaration required pursuant to the California
29 Environmental Quality Act (Division 13 (commencing with
30 Section 21000)). However, funds in the subaccount may be used
31 to support public projects or activities that are included in the
32 implementation measures of a county's Municipal Storm Water
33 National Pollutant Discharge Elimination System Permit issued
34 by a regional water quality control board pursuant to subparagraph
35 (A) of paragraph (4).

36 (3) Priority shall be given to those projects and grants that most
37 effectively accomplish the purposes of this section through the
38 long-term protection, restoration, and enhancement of the natural
39 environment or areas used for agriculture that are impacted by
40 motor vehicles and motor vehicle facilities.



- 1 (4) Eligible expenditures are limited to projects and activities
2 that prevent, reduce, remediate, or mitigate the adverse water
3 quality and environmental impacts of motor vehicles and motor
4 vehicle facilities including, but not limited to, the following:
- 5 (A) Nonpoint source pollution treatment and pollution
6 reduction projects, for the purpose of preserving and restoring
7 natural wetland and watershed functions, such as constructed,
8 restored, and enhanced wetlands, marshlands, diked lands, ponds,
9 streams, creeks, riparian areas, and watersheds.
- 10 (B) Restoration of all of the following:
- 11 (i) The functions, components, and diversity of a natural
12 functioning stream system, including, but not limited to, the flood
13 plains, active-bankfull channels, meanders, and riparian
14 resources.
- 15 (ii) A desired balance between runoff and sediment
16 contributions in a watershed, including, but not limited to,
17 reducing the adverse effects of excessive runoff from roads and
18 parking lots, improving water conservation and groundwater
19 recharge, and controlling excessive erosion from creek banks,
20 road cuts, culverts, and bridges.
- 21 (iii) Aquatic and terrestrial habitats, including, but not limited
22 to, the removal of barriers to fish and wildlife migration.
- 23 (iv) Fish rearing and spawning habitat and aquatic, riparian,
24 and flood plain habitats.
- 25 (C) Acquisition of riparian buffers and watershed lands to
26 protect, restore, and enhance the function of riparian and
27 associated habitats and to protect, restore, and enhance the
28 movement of fish and wildlife within and between those habitats.
- 29 (D) Acquisition of land and conservation easements to protect
30 or facilitate the restoration of habitats and connecting corridors,
31 agricultural land, and other open spaces impacted by motor
32 vehicles and motor vehicle facilities.
- 33 (E) Research and education to improve scientific and public
34 understanding of the impacts of motor vehicles and motor vehicle
35 facilities and related infrastructure on water quality, habitat, and
36 the movement of fish and wildlife within and between those
37 habitats, as well as the most effective projects and management
38 practices for preventing, reducing, remediating, or mitigating
39 those impacts.



1 (F) The acquisition, development, rehabilitation, or
2 improvement of nonmotorized trails and facilities that help reduce
3 impacts by providing alternatives to motor vehicle use.

4 (5) To the extent feasible, in carrying out the purposes of this
5 chapter, the conservancy shall utilize the services of the California
6 Conservation Corps and Community Conservation Corps, as
7 defined in Section 14507.5, and any other nonprofit organization
8 that the conservancy determines has relevant and demonstrated
9 capacity and expertise.

10 (6) In determining priorities, and in designing and carrying out
11 these projects, the conservancy shall consult with the appropriate
12 Regional Water Quality Control Board. The conservancy shall
13 also consult with local governments, affected special districts and
14 agencies, and nonprofit organizations.

15 (c) The use of the fees imposed upon the registration or
16 registration renewal of every motor vehicle registered in eligible
17 participating counties would not result in the imposition of a tax
18 within the meaning Article XIII A of the California Constitution,
19 because the amount and nature of the fee has a fair and reasonable
20 relationship to the adverse environmental burdens imposed by
21 motor vehicles and their related facilities and infrastructure, and
22 there is a sufficient nexus between the fees imposed and the use of
23 those fees to support the prevention, reduction, remediation, and
24 mitigation of the adverse water quality and environmental impacts
25 caused by motor vehicles and their related facilities and
26 infrastructure.

27 SEC. 4. Section 31166 is added to the Public Resources Code,
28 to read:

29 31166. Funds shall be expended for projects within those
30 counties that elect to participate pursuant to Section 31165. In
31 counties that do not elect to participate pursuant to Section 31165,
32 no funds may be expended. Funds shall be distributed for projects
33 and grants in participating counties in a manner that, over any two
34 two-year periods prescribed by Section 31167, project and grant
35 benefits are generally proportional to the revenues collected in
36 each participating county pursuant to Section 9250.20 of the
37 Vehicle Code for vehicles registered in that county.

38 SEC. 5. Section 31167 is added to the Public Resources Code,
39 to read:

1 31167. The conservancy and the regional water quality
2 control boards, as applicable, shall, at least once every two years,
3 each undertake an audit of the program of projects and grants
4 funded, in whole or in part, through the Transportation Fund For
5 Clean Water Subaccount. The audit shall, at a minimum, evaluate
6 the degree to which resources adversely impacted by motor
7 vehicles and motor vehicle-related facilities and infrastructure
8 have been protected, restored, or rehabilitated, the level of
9 matching funds obtained, and the distribution of funds and
10 projected benefits by county. The audit shall be made available to
11 the Legislature, participating counties, other interested agencies,
12 and the public upon request.

13 SEC. 6. Section 9250.20 is added to the Vehicle Code, to read:
14 9250.20. (a) The department shall, if requested by the State
15 Coastal Conservancy pursuant to subdivision (a) of Section 31165
16 of the Public Resources Code, collect a fee of up to four dollars
17 (\$4), upon the registration or renewal of registration of any motor
18 vehicle registered in the Counties of Alameda, Contra Costa,
19 Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, or
20 Sonoma, if the county has elected to participate in the
21 Transportation Fund For Clean Water Subaccount, except those
22 vehicles that are expressly exempted under this code from the
23 payment of registration fees. The department shall begin
24 collecting the fee in each county that elects to participate in the
25 Transportation Fund For Clean Water Subaccount on January 1 of
26 the fiscal year immediately following the date the department
27 receives the request to do so from the State Coastal Conservancy.
28 The fee shall be included by the department in any fee statement
29 or notice as part of its designation of county/district fees.

30 (b) After deducting necessary and reasonable costs incurred by
31 the department pursuant to this section, the department shall remit
32 the balance of the revenues received pursuant to this section to the
33 Treasurer who shall deposit those revenues in the Transportation
34 Fund For Clean Water Subaccount established pursuant to
35 subdivision (a) of Section 31165 of the Public Resources Code.

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